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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/687,191 | 10/15/2003 | Gregory B. Hale | 58085-010201 | 7574 |

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SANTA MONICA, CA 90404

EXAMINER

HARTMAN JR, RONALD D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2121

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,191

Applicant(s)

HALE ET AL.

Examiner

Ronald D Hartman Jr.

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/15/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/4/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-17 are presented for examination.

Priority

2. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the application's upon which priority is claimed, 09/617,721 and 09/372,405, both fail to provide adequate support under 35 U.S.C. 112 for claims 1-17 of this application.

That is, the use of a cellular telephone is not a feature that the aforementioned applications adequately disclose and therefore this subject matter is not entitled to priority to the previously filed applications. Therefore, it is the Examiner's opinion that the effective filing date of this subject matter is the filing date of the instant application, that being 10/15/2003.

Claim Objections

3. Claims 1, 4 and 17, line 1, change "by patrons of" to "of patrons onto".
Claims 1, 4 and 17, line 2, change "the" to "an".
Claims 10 and 15 recite "the computation" in line 3. There is not proper antecedent basis for this limitation.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimm et al., U.S. Patent No. 2002/0116235, in view of Croughwell et al., U.S. Patent No. 5,966,654.

As per claims 1, 4 and 17, Grimm et al. teaches a method of managing the loading of patrons onto multiple attractions in an entertainment environment wherein different patrons are permitted access to an attraction on at least two bases, firstly, a first in first out basis (Examiner's Interpretation: viewed to be the functional equivalent of a traditional waiting line; [0033] and [0040]), and secondly, on a priority basis established by a prior allocation of a space to the attraction (Examiner Interpretation: viewed to be the functional equivalent of a reservation line [0033] and [0040]), the method comprising:

- permitting a patron of an attraction to use a cellular telephone in connection with access to a first attraction (e.g. Abstract, [0014], [0041], [0060], and claims 7, 11, 19, 76, 79, 86, 95 and 106); and
- permitting application through an entry of a request on the cellular telephone for an allocation of a space on the first attraction including receiving an input from a patron at a remote location, the input being communicated to a central computer (e.g. [0015] and [0016]) for regulating the load of the first attraction, receiving a response about available return times for the attraction and permitting the patron to select one of the available return times (e.g. viewed to be the functional equivalent of making a reservation; [0060]).

As per claims 1-6 and 17, although Grimm et al. discloses the use of a cellular telephone for making reservations, Grimm et al. does not specifically teach a keying operation, per se, for the actual cellular telephone.

Croughwell et al. teaches a recyclable portable cellular phone for use with making reservations for a amusement or theme park wherein a keying operation, performed using the cellular telephone, initiates the making of a reservation by

communicating with a central computer (e.g. C2 L18-32, Figure 2A elements 70 and 72 and C8 L15-19).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a cellular keypad for inputting commands to the central computer for the purpose of allowing a simple, yet extremely effective way of transmitting the commands to the central computer, and this would have been obvious to one of ordinary skill in the art at the time the invention was made.

As per claims 7 and 12, Grimm et al. further teaches the use of bar code (e.g. Figure 3B and its corresponding textual descriptions).

As per claims 8 and 13, Grimm et al. teaches redeeming the priority at the time of entry into the attraction (e.g. [0033]).

As per claims 9 and 14, Grimm et al. teaches the continuous collection of data with respect to the amount of patrons utilizing both means of entering attractions, that is, the FIFO or traditional waiting line, and the priority or reservation line, (e.g. [0108]).

As per claims 10 and 15, Grimm et al. further teaches that data is collected which is associated with the return of previously assigned priority access and that non-use of a priority assignment is also used during data collection and calculations (e.g. both are viewed to be the functional equivalent of a cancellation; [0108]).

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-6 and 17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of copending Application No. 10/687,190. Although the conflicting claims are not identical, they are not patentably distinct from each other because the slight differences between the claim language does not change or affect the overall scope of the claimed invention, and further because these slight differences would have been obvious to one of ordinary skill in the art at the time the invention was made.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1, 6 and 17 of 10/687,191 claim essentially the same subject matter claimed by way of pending claim 1 from U.S. Patent Application No. 10/687,190.

Furthermore, claims 2-3 and 4-6 of 10/687,191 claim essentially the same subject matter claimed by way of pending claims 2-3 from U.S. Patent Application No. 10/687,190.

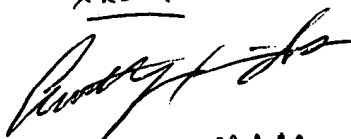
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D Hartman Jr. whose telephone number is (571) 272 - 3684. The examiner can normally be reached on Mon. - Fri., 11:30 am - 8:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached at (571) 272 - 3687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald D Hartman Jr.
Patent Examiner
Art Unit 2121

x RDH

Anthony Knight
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